

AMENDED IN SENATE AUGUST 30, 1999

AMENDED IN SENATE JUNE 24, 1999

AMENDED IN ASSEMBLY MAY 28, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 194**

**Introduced by Assembly Member Longville**

January 21, 1999

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An act to amend ~~Section 1803~~ *Sections 1803, 23221, 23223, 23225, and 23226* of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 194, as amended, Longville. Vehicles: offenses: court clerk: forwarding records.

(1) Under existing law, every court clerk is required to forward to the Department of Motor Vehicles an abstract of the record of any person convicted of a violation of the Vehicle Code. However, existing law provides certain exceptions to this requirement including convictions of the offenses of drinking any alcoholic beverage in a motor vehicle, or possessing, storing, or keeping an open alcoholic beverage container in a motor vehicle, as specified.

This bill would delete the above described exceptions when committed by the driver of the motor vehicle from the reporting requirements, thereby requiring the clerks to report these additional convictions to the department, and thus imposing a state-mandated local program by increasing the duties imposed on court clerks.

*The bill would make conforming changes.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1803 of the Vehicle Code is  
2 amended to read:  
3 1803. (a) Every clerk of a court in which a person was  
4 convicted of any violation of this code, was convicted of  
5 any violation of subdivision (a), (b), (c), (d), (e), or (f)  
6 of Section 655 of the Harbors and Navigation Code  
7 pertaining to a mechanically propelled vessel but not to  
8 manipulating any water skis, an aquaplane, or similar  
9 device, was convicted of any violation of Section 655.2,  
10 655.6, 658, or 658.5 of the Harbors and Navigation Code,  
11 or any violation of Section 191.5 of the Penal Code when  
12 the conviction resulted from the operation of a vessel, was  
13 convicted of any offense involving use or possession of  
14 controlled substances under Division 10 (commencing  
15 with Section 11000) of the Health and Safety Code, was  
16 convicted of any felony offense when a commercial motor  
17 vehicle, as defined in subdivision (b) of Section 15210, was  
18 involved in or incidental to the commission of the offense,  
19 or was convicted of any violation of any other statute  
20 relating to the safe operation of vehicles, shall prepare  
21 within 10 days after conviction and immediately forward  
22 to the department at its office at Sacramento an abstract

1 of the record of the court covering the case in which the  
2 person was so convicted. If sentencing is not pronounced  
3 in conjunction with the conviction, the abstract shall be  
4 forwarded to the department within 10 days after  
5 sentencing and the abstract shall be certified by the  
6 person so required to prepare it to be true and correct.

7 For the purposes of this section, a forfeiture of bail shall  
8 be equivalent to a conviction.

9 (b) The following violations are not required to be  
10 reported under subdivision (a):

11 (1) Division 3.5 (commencing with Section 9840).

12 (2) Section 21113, with respect to parking violations.

13 (3) Chapter 9 (commencing with Section 22500) of  
14 Division 11, except Section 22526.

15 (4) Division 12 (commencing with Section 24000),  
16 except Sections 24002, 24004, 24250, 24409, 24604, 24800,  
17 25103, 26707, 27151, 27315, 27360, 27800, and 27801 and  
18 Chapter 3 (commencing with Section 26301).

19 (5) Division 15 (commencing with Section 35000),  
20 except Chapter 5 (commencing with Section 35550).

21 (6) Violations for which a person was cited as a  
22 pedestrian or while operating a bicycle.

23 (7) Division 16.5 (commencing with Section 38000).

24 ~~(8) (A) Sections 23221, 23223, 23225, and 23226.~~

25 ~~(B) The exemption provided under this paragraph~~  
26 ~~does not apply to a violation listed under subparagraph~~  
27 ~~(A) that was committed by the driver of the motor~~  
28 ~~vehicle.~~

29 *(8) Subdivision (b) of Section 23221, subdivision (b) of*  
30 *Section 23223, subdivision (b) of Section 23225, and*  
31 *subdivision (b) of Section 23226.*

32 (c) If the court impounds a license, or orders a person  
33 to limit his or her driving pursuant to paragraph (2) of  
34 subdivision (a) of Section 23538, subdivision (b) of  
35 Section 23542, subdivision (b) of Section 23562, or  
36 subdivision (d) of Section 40508, the court shall notify the  
37 department concerning the impoundment or limitation  
38 on an abstract prepared pursuant to subdivision (a) of this  
39 section or on a separate abstract, which shall be prepared  
40 within 10 days after the impoundment or limitation was

1 ordered and immediately forwarded to the department  
2 at its office in Sacramento.

3 (d) If the court determines that a prior judgment of  
4 conviction of a violation of Section 23152 or 23153 is valid  
5 or is invalid on constitutional grounds pursuant to Section  
6 41403, the clerk of the court in which the determination  
7 is made shall prepare an abstract of that determination  
8 and forward it to the department in the same manner as  
9 an abstract of record pursuant to subdivision (a).

10 (e) Within 10 days of an order terminating or revoking  
11 probation under Section 23602, the clerk of the court in  
12 which the order terminating or revoking probation was  
13 entered shall prepare and immediately forward to the  
14 department at its office in Sacramento an abstract of the  
15 record of the court order terminating or revoking  
16 probation and any other order of the court to the  
17 department required by law.

18 *SEC. 2. Section 23221 of the Vehicle Code is amended*  
19 *to read:*

20 23221. (a) No ~~person~~ driver shall drink any alcoholic  
21 beverage while in a motor vehicle upon a highway.

22 (b) *No passenger shall drink any alcoholic beverage*  
23 *while in a motor vehicle upon a highway.*

24 *SEC. 3. Section 23223 of the Vehicle Code is amended*  
25 *to read:*

26 23223. (a) No ~~person~~ driver shall have in his or her  
27 possession ~~on his or her person~~, while in a motor vehicle  
28 upon a highway or on lands, as described in subdivision  
29 (b) of Section 23220, any bottle, can, or other receptacle,  
30 containing any alcoholic beverage ~~which~~ *that* has been  
31 opened, or a seal broken, or the contents of which have  
32 been partially removed.

33 (b) *No passenger shall have in his or her possession,*  
34 *while in a motor vehicle upon a highway or on lands, as*  
35 *described in subdivision (b) of Section 23220, any bottle,*  
36 *can, or other receptacle containing any alcoholic*  
37 *beverage that has been opened or a seal broken, or the*  
38 *contents of which have been partially removed.*

39 *SEC. 4. Section 23225 of the Vehicle Code is amended*  
40 *to read:*

1 23225. (a) (1) It is unlawful for the registered owner  
2 of any motor vehicle, ~~or the driver if the registered owner~~  
3 ~~is not then present in the vehicle~~, to keep in a motor  
4 vehicle, when the vehicle is upon any highway or on  
5 lands, as described in subdivision (b) of Section 23220, any  
6 bottle, can, or other receptacle containing any alcoholic  
7 beverage ~~which~~ *that* has been opened, or a seal broken,  
8 or the contents of which have been partially removed,  
9 unless the container is kept in the trunk of the vehicle.

10 (2) If the vehicle is not equipped with a trunk and is  
11 not an off-highway motor vehicle subject to  
12 identification, as defined in Section 38012, the bottle, can,  
13 or other receptacle described in paragraph (1) shall be  
14 kept in some other area of the vehicle that is not normally  
15 occupied by the driver or passengers. For the purposes of  
16 this paragraph, a utility compartment or glove  
17 compartment shall be deemed to be within the area  
18 occupied by the driver and passengers.

19 (3) If the vehicle is not equipped with a trunk and is  
20 an off-highway motor vehicle subject to identification, as  
21 defined in subdivision (a) of Section 38012, the bottle,  
22 can, or other receptacle described in paragraph (1) shall  
23 be kept in a locked container. As used in this paragraph,  
24 “locked container” means a secure container that is fully  
25 enclosed and locked by a padlock, key lock, combination  
26 lock, or similar locking device.

27 (b) *Subdivision (a) is also applicable to a driver of a*  
28 *motor vehicle if the registered owner is not present in the*  
29 *vehicle.*

30 (c) This section shall not apply to the living quarters  
31 of a housecar or camper.

32 *SEC. 5. Section 23226 of the Vehicle Code is amended*  
33 *to read:*

34 23226. (a) It is unlawful for any ~~person~~ *driver* to keep  
35 in the passenger compartment of a motor vehicle, when  
36 the vehicle is upon any highway or on lands, as described  
37 in subdivision (b) of Section 23220, any bottle, can, or  
38 other receptacle containing any alcoholic beverage  
39 ~~which~~ *that* has been opened, or a seal broken, or the  
40 contents of which have been partially removed.

1     ***(b) It is unlawful for any passenger to keep in the***  
2     ***passenger compartment of a motor vehicle, when the***  
3     ***vehicle is upon any highway or on lands, as described in***  
4     ***subdivision (b) of Section 23220, any bottle, can, or other***  
5     ***receptacle containing any alcoholic beverage that has***  
6     ***been opened or a seal broken, or the contents of which***  
7     ***have been partially removed.***

8     ***(c) This section shall not apply to the living quarters***  
9     ***of a housecar or camper.***

10    SEC. 2. Notwithstanding Section 17610 of the  
11    Government Code, if the Commission on State Mandates  
12    determines that this act contains costs mandated by the  
13    state, reimbursement to local agencies and school  
14    districts for those costs shall be made pursuant to Part 7  
15    (commencing with Section 17500) of Division 4 of Title  
16    2 of the Government Code. If the statewide cost of the  
17    claim for reimbursement does not exceed one million  
18    dollars (\$1,000,000), reimbursement shall be made from  
19    the State Mandates Claims Fund.

